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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF
NEW YORK

CARL D. WELLS
Petitioner,

VS.

MOTION IN
Support AND Supple-
mental / ADDENDUMS TO,
MOTION TO VACATE
[Fed.R.Civ.P. 60(b)(6)]

Supt. MARK MILLER

1:21-cv-11231 (LTL)

Respondent.

[L. T. LIMAN, U.S. DIST. J.]

THE petitioner, CARL D. WELLS, hereby declares
under the penalty of perjury, that the
foregoing statements and exhibits are true and
correct to the best of my knowledge.

1. This is a Motion in Support of a
Newly Filed Motion, Dkt ENTER (86), dated
4/21/23, to VACATE A Judgment by this
Court, dated, 3/27/23, which dismissed
The original petition, Denied without pre-
judice, etc., Dkt ENTER (82).

MOTION
Supplemental/Amendments
(Fed. R. Civ. P. 60-B)

(2) Cont'd

- The petitioner filed for the following reasons:
- A). QUESTIONS: WHETHER THE CONTINUED, REPEATED, LOSS AND FAND, DOCUMENTS, FILES, BANKER BOXES, TRANSCRIPTS, (DNA) EVIDENCE, ETC, BETWEEN, 2006 THRU 2019 AND, 2023, WAS, AND/OR IS, A RESULT OF THE STATES ERRORS; AS 1.) MINISTERIAL NEGLIGENCE, 2.) HEARSAY, 3.) NON TRUTHFUL STATEMENTS? A Rule (8) HEARING IS REQUIRED TO ANSWER THESE QUESTIONS? [SEE: Dobbs v. Zhao, 506 U.S. 387, 113 S.Ct. 835 (1993).

2. A HEARING should be held to develop the actual facts and truth of the issue related to, what exists today + today, to perfect said appeal; AND whether some error took place that the state court could have prevented; also, whether the states error prevents the factual development, proving 'impossibility' to obtain what is (said) to be possible by both, MR. PAUL LYONS, Assoc. (AG), And; MR. DAVID BERNSTEIN, Esq., Also; -

Motion
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③ Contd

- pursuant to a lack of 'Due Diligence' etc.?
B). Whether this Court can assign Counsel,
MR. David Bernstein, Esq., or other Attorney
to conduct a Rule 8(b)(1) Evidentiary Hearing?
C). Whether THE PETITIONER is GENUINELY INNOCENT
of SAID ROBBERY OF, MR. CARLOS CONCEVES,
which SAID, in the 2019 TRIAL of JURY,
THAT THE PETITIONER, IS NOT THE PERSON WHO
ROBBED HIM, [T: 765, lines, 1-Thru 10];
Moreover, IN TRIAL, GAVE TESTIMONY THAT,
"ONE BIG REVOLVER"; "THE BIG REVOLVER
IN THE DIRECTION OF MY HEED"; "HIS RIGHT
INDEX FINGER, AND POINTING IT TOWARDS HIS
FOREHEAD", As Grand Jury And 2019 TRIAL,
CHARGED, "WHAT APPEARED TO BE A PISTOL";
[PLS 160.15 (4)]; And, CLAIMED, "HAND ON THE
POCKET", Even? [T: 767, line 25];
[T: 755, Lines, 8-Thru 13]. (See: Exhibited
Appendix).

D). Whether THE PERIOD ON, July 24th, 2015,
And, 12-08-06, Between, BLIND AND NEW YORK COUNTY,
Are Both, Illegal, A STRONG AS A RESULT, -

MOTION
Supplemental / Amendments
(Fed. R. Crim. 60-B)

④ Contd

- THE Detention on Rikers Island And all event
Between, 2006 Thru March of 2019, is the Fruit
of Illegality And must be Suppressed, including,
Illegal Detention, Trial, etc...?
E.). Whether, The 2013, Court of Appeals decision,
(Pro v. Wells); 21 NY 3d 716, precludes, 1),
Testimony by, Bronx Assessing Officer, Then, p/p
Chan? 2.) Use of evidence, Same Vehicle In
2019 Trial? (See: Appendix) also See [T: 821
Thru 829]...

3. IT IS CLAIMED That A, 'Fundamental
Misconduct of Force' Requires Review of entire Case,
From 2006, Today? Moreover, Substantive -
Violations is Violated, (U.S.C.A. Const. Amendments, 5, 6,
8 + 14, including (4) Legal Access, Search + Seizure)
Are All Violated, THE Reality of This Case
is A Set of Clear, 100% Constitutional, Repeated
Violations And Events That Requires The Assigned
Appellate Attorney to present That to This Court,
And Request for the Release of his Client?
His effective assistance Requires The Review,
In light of Constitutional Error, As Stated -

Motion
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⑤ Contd

- Jurisdiction That MR. Bernstein entered, is a pending Constitutional Challenge? The Respondents took it upon themselves to introduce Letters from the assigned Appellate Counselors from O.A.M. assigned in 2019. As Attorney's who obtained a copy of the exhibited TRAVESE, with attachments, moreover, is not required to Review pending Habeas Corpus, State Relaxed, Before a determination as to whether to try and perfect an Appeal for prisoner, who's Arrest and Indictment is over 16 yrs. [NOTE: Prisoner gave a complete set of TRAVESE exhibits on them, in person visit, O.A.M. Attorney's / Prison Legal].

4. (See: SL-032 -, 033 + 034), Exhibited By Respondents), "Some Cases Relaxed", Dismissal Motion. (O.A.M.) Letter dated, 1/19/23 By, David Bernstein, & Alan J. Litwin, Staffs They, O.A.M., Tell The First Deputy Clerk That "we identified that the following documents were missing", "VDF", "Ombuds Decision + Order", "Notice of Ombuds Motion", And "D's Response to Ombuds Motion",

⑥ Contd

MOTION
Supplement / Addendums
(Fed. R. CIV. p. 60-B)

5. NEXT, A Letter To The Court, 1/26/23, Claiming, That 1st Dep't "Still has not proceeded so with a Fully Complete Relied on Appeal"? "We are still missing an entire day of ~~pages~~ "THE VOIR-dire" (and possibly extraordinary Arguments) "That preceded Opening Arguments" THE MAIN days of This 'VOIR DIRE' happens to be, Jan 10th + 11th, 2019, Subject to A WRIT of Habeas, 78 and Disqualification Motion, Against, Daniel Connors, (See), p. 25 in, Court for Mr. Kevin McGehee, (See), in Court records. (See Appendix: 1st Dep't App Div. Index # 134/12. Walt v. The Presley, et al., Cal. Cases No 78, 1/17/18, and, 3/29/2018, Deaton denying Writ, M# 6508, # 6145, See Appeal to Toner District, Judge: 245 et al App's, (SSD-27) Decision, June 7th, 2018, (See, May 4th 2018, Opposing Papers to, Ct. of Appeals, M# 2018-1144, also See, 159 App 3d 651 (2018). The petitioner also Removed,

6. In petitioner's Response, opposing Respondent, MCH's John D. Hughes, Dec 27, 2018 papers, The petitioner wrote a letter about January 10th, -

⑦ Word

Motion
Supplemental/Appendix
(Fed. R. Civ. P. 60-B)

- And 11th, 2019, Attaching Disqualification Motion
(See: Appendix), IT JUST SO HAPPENS THAT THE VERY
DATE THAT THE (O.R.A.) AND RESPONDENTS WERE HAVING
TROUBLE WITH, HAPPENS TO BE WITH, 'DOM CARO', AND
STRESSING TO THE POTENTIAL FUTURE CONCERNING, WHY
A 12 YEAR DELAY FOR IT TO TAKE PLACE?
THE JUDGE, CONSIDER, pg 90, JAN 10th, 2019, SAND,
QUESTIONS THE 12 YEAR DELAY IS ATTRIBUTED
AND OR IS NOT THE FAULT OF EITHER THE PRO-
-SECUTION/GOVERNMENT! A REWORK & DISQUALIFICATION
DATED, JANUARY 11th, 2019, ADDRESSED TO, MAYOR LEE
ELLEN BIBER, WKS LTR, (3 of 3) PAGES, ATTACHED
TO RESPONSE LETTER DATED, JAN 12th, 2019, TO THE
CT. of App's Clerk AND MR JOHN T. HUGHES (See
Appendix. A MOTION TO THE MD SUP CO "OUT OF TIME"
WAS FILED, 2018-1144, 134-17, ON PERSONAL
WAS DENIED. (See: Appendix).

6, SINCE MR DAVID BERNSTEIN OF THE (O.R.A.)
DECIDED TO SUBMIT A LETTER, OR LETTERS, AS THE REQUEST
OF THE RESPONDENTS IN THIS CASE, WITHOUT PROVING
FOR A RECONSTRUCTION HEARING AS, APPELLATE COUNSEL,
ROBERT S. DEAN DID IN, 2012, OF APRIL 2nd?

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(8) Contd

- (See; Appendix; Letter dated 4/2/2012, by Courney, Claudia S. TRIPP, And, May 1st, 2013, (2 of 2) pgs, which was notice of missing transcripts, And of Reconsolidation Hearing, (See; (September 18th, 2012), (8 of 4) page Reconsolidation transcripts Appellate Counsel, Claudia S. TRIPP, And (ONA) Roser Walker presents This Court should order its own Hearing. It is claimed that the documents still missing And all other documents, transcripts etc, has continued to change. Moreover, the ending Letter after failure to Respond, All violate a Right to a notice And opportunity to be heard, And is simply: Unconstitutionally Vague (See; KOLENDER V. LAWSON, 103 S.Ct. 1850.

7. Also, In Original Exhibited 40.10 Appendix, (Exhibit A) Oct 31, 2018 Transcript, (ONA) Courney Groves Claims she turned over "Boxed 150" with "Itemizing (157) Different Documents, which, (ONA) kept from defense in 2008? Compare. Still, (ONA) Groves didn't have any of the new or have the old documents, Two a Disk, Not Reviewed. In fact, This Requires a Hearing (See; Appendix, (A TRANSCRIPT: OCT 2nd 2018, [T: 9, 10, lines (14 Thru 22, pg 9) (9 Thru 20) pg 10.

⑨ Concl

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Conclusion

- On page 10, (PMA) Groves Leaves a question to be answered. She says, "over-ally, I believe, two boxes of Court Files that were missing. This did delay the appeal back on (2012) to 2015". [Not who's fault is this?] "But the people have never, have never not known the location of the boxes related to this file," "They have always been in the people's possession." "There are conversations in our file." "There has never been a loss of boxes on the people's part," (lines, 11-20). etc,

Judge Conover told potential jurors, "it's neither the state/government's fault", and those transcripts are missing? OR are they? Courtney Groves tells the Court, nothing has ever been missing? So, is the prisoner a victim of state/government error? OR lies? Who can be trusted? A hearing is required, and respectfully requested.

Dated: MAY 5th, 2023.

I, Carl Wells declare under penalty of perjury that the foregoing is true and correct: 28 Nov 1746.

EXECUTED This 5th day of May, 2023

Carl B. Wells, Petitioner, 5/8/23

Appendix;
Numbered;
Motions

Supplemental 3 1:21 cv 11281
ADDENDUM
Fed. R. Civ. p. 60-B
5/5/23

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1. TRIAL - TRANSCRIPT - CONCLUSIONS: pgs (3), 1/2019 - pgs 95 NY Co.
2. TRIAL - TRANSCRIPT - PROCEEDINGS: pgs (9), 1/2019 - pgs 95 NY Co.
3. 1ST Dep. App. Div. Delors. 3/29/18, pgs (1)
4. ET OF App's / STATE of NEW YORK; Delors. June 7, 2018 - pgs (2)
5. Response letter to, et of App's. 1/12/2019, pgs (6)
6. N.O. Sup. et. Cover - pg - OUT OF TIME motion. pg (1).
7. Letter From: (ORR) DAVID BERSTEIN, Chief NY: 1/19/23.
8. Letter From: (ORR) TO Court (US) Dist. From DAVID BERSTEIN, 1/26/23 ^{2 pgs}
9. Letter dated: 4/2/12, By Claudia S. Trapp, Apped Counsel, (1-pg)
10. Letter dated: 5/1/2013, By Claudia S. Trapp, Apped Counsel, 2 (pgs).
11. TRANSCRIPT: Sep 18, 2012, Re Bernstein Hearing, pgs 32, NY Co. (4 pgs)
12. Letter dated: 6/11/2013 to: JUDGE NY, 13 pgs. (3-pgs)
13. TRANSCRIPT: Oct 2nd, 2012, (3-pgs) pgs: 39, NY Co. proceedings.

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1:21 CV-11231 (LWL)
(Fed. R. Civ. P. 60-13)
Appendix

DECLARATION OF SERVICE

State of New York }
County of Dutchess } SSA

Carol R. Wells, person, pro-se, And pursuant
to 28 USC § 1746, declares under penalty of
perjury as follows:

That on, May 8th, 2023, I
mailed, Through International Employees Inc, Green
Haven C.A., 594 Route 216, Stormville, NY 12582,
The Attached 9-pg Motion in Support And
Supplement/Amendments, Fed. R. Civ. P. 60-13, With
Attached Appendix w/ 13 Exhibits, to The
Respondents via The U.S. Postal Service
to The following Address:

28 Liberty Street,
New York, NY 10005
Office of the Attorney General
State of New York

ATTN: Pat B. Gorman

I, declare under penalty of perjury that the
 foregoing is true and correct. Executed on, May
8th, 2023.

Carol Wells
Person

1 THE COURT: You said the car-jack? You said
2 what?

3 THE WITNESS: When he stole --

4 THE COURT: When he stole the car?

5 THE WITNESS: Yes.

6 A. He stole the car; that was the first time. The
7 second time when I -- [Unintelligible.]

8 Q. [Interrupting.]

9 The second time you saw him was on the place in 12th
10 Street?

11 A. Exactly.

12 Q. But when you saw the person holding number 5 in the
13 line-up, you recognized him as the person who ten days earlier
14 had opened the door and car-jacked you?

15 A. Exactly.

16 Q. Okay.

17 Now, Mr. Goncalves, if you saw the person that
18 car-jacked you on December 4, would you recognize him again?

19 A. December --

20 I saw him again on the 14th, December 14.

21 Q. Yes.

22 And if you were to see him again, today, do you believe
23 you would recognize him?

24 A. I don't know. Maybe yes, maybe not.

25 Q. So I am going to ask you to please take a moment,

1 look around the courtroom, and tell me if you see that man here
2 today.

3 (Witness complies.)

4 A. That's twelve years later.

5 (Whereupon, there was a pause in the
6 proceedings.)

7 A. No.

8 Q. And --

9 A. [Interrupting.]

10 No.

11 Q. Mr. Goncalves, I am going to show you what's already
12 in evidence as People's exhibit 18.

13 (Handing.)

14 (Whereupon, the Court Officer is handing the
15 above mentioned item to the witness.)

16 A. Yes.

17 Q. Do you recognize that?

18 A. Yes. I have my initials on it.

19 Q. Do you recognize your initials on that disk?

20 A. Yes. My initials.

21 Q. Did you listen to the contents of that disk, prior
22 to testifying?

23 A. Yes.

24 Q. Does that disk contain the 9-1-1 call that you and
25 Mr. Cooper placed on December 4, 2006?

1 am going to get out the car. He said, get out the car now
2 because if you don't I am going to explode your head.

3 THE COURT: You said explode your head?

4 THE WITNESS: Yeah.

5 Because I'm not so --

6 THE COURT: I just didn't hear. I wanted to
7 make sure.

8 A I looked for him, and he is open the jacket, and
9 from the side, one big revolver. And he showed me the
10 revolver. Again, the big revolver in the direction of my head.

11 THE COURT: The witness is taking his index
12 finger, his right index finger, and pointing it towards
13 his forehead.

14 Go ahead.

15 Q So, after this man pointed the revolver at your
16 head, what happened?

17 A I told him to take it easy. I got out of the car.
18 And he took the car and he went away.

19 Q Now, I want to go back to when you first saw this
20 man.

21 What did the person look like?

22 A Tall guy, maybe 6'2" or 6'1." He is like between
23 black and white. Like light black. You know. I don't know
24 how the word, but light black. And his jacket, I'm not sure if
25 yellow or beige.

1 identification of specific people, not about testimony and
2 memory in general.

3 Mr. Wells?

4 THE DEFENDANT: Your Honor, this is one of my
5 layman objections. I'm not trying to disrupt the Court.

6 I think I might have a decent objection here. But
7 I want to do this in reference under three points. One is,
8 I am going to do it under mistrial. Two, I am going to do
9 it under being denied a fair trial. And the third, I would
10 consider just thinking about reopening the suppression
11 hearing. Ms. Rose Elrubin did, in 1991, which -- where she
12 found, in the middle of a trial, that there was another
13 suspect arrested for my crime. This is my objection --
14 Elrubin, E-L-R-U-B-I-N, Rose.

15 Your Honor, tell me, if I am right or not. You
16 can cut me off if I am wrong. But the People have, today,
17 they presented Officer Pizarro back on the stand here. And
18 they took -- He testified to going to the 40th Precinct.
19 Okay. And I am not sure if he did it before, but they
20 brought him back in, and they were relating to this arrest.
21 And they mentioned the fact that I was under arrest, and
22 taken from the 40th Precinct and handed over. Okay. And
23 detailed again. My objection is this, okay, this arrest,
24 here -- is -- This is not actually valid until 1-31-2007.
25 It's associated with the arrest on a warrant that took

1 place 12-14-06. And my objection is, I feel that, and
2 respectfully, that the People are nullifying constitutional
3 objections to that arrest, by precluding the third arrest
4 and not producing Christian Jones [phonetic] and the arrest
5 of the third arrest that actually makes the ---

6 THE COURT: Wait. Stop.

7 I am --

8 Stop. Give me a minute.

9 Who is Christian Wells?

10 MS. GROVES: Kristen Jones is a detective in
11 the Bronx who actually made the subsequent arrest of
12 Mr. Wells for the 2006 Bronx DWI. They had deferred
13 prosecution. And then she was the detective who arrested
14 him in January, for the prior arrest.

15 THE DEFENDANT: Here is where the argument
16 comes in under Huntley. I move to suppress these
17 statements. The argument comes under Huntley, under this.
18 That 33 arrest was not associated with any arrest. Okay.
19 Pizarro came over and snatched me from the 40th Precinct
20 without any authorization at all. And because I was under
21 arrest at the 40th Precinct, for three E felonies and one
22 misdemeanor at the exact same time, my parole officer was
23 notified; on the list, I had an arraignment number in the
24 Bronx. At the time that Pizarro came and picked me up at
25 that 40th Precinct, I had arrest report, three E felonies,

1 one misdemeanor, one being the car, for Possession of
2 Stolen Property in the Fourth Degree. He took me and put
3 me in line-ups and charged me with the same exact charge,
4 which is impossible, because it's double jeopardy. It's
5 impossible. And that charge was pending in the Bronx while
6 he was actually charging me, Your Honor.

7 This is what I ran into when I argued this case in
8 Bronx with -- Darren Weisenberg was my co-counsel in the
9 Bronx. I cross-examined Pauleen Chung and now Pauleen
10 Pereira two times about this. And the issue is, is this,
11 it goes under a Huntley Hearing, a Huntley, Dunaway
12 Huntley, because what I am claiming is, I am claiming that
13 the Prosecution is intentionally deleting the whole arrest,
14 which makes it illegal from a prosecution, and now a trial.
15 They are talking about the 33 going and picking me up from
16 Pauleen Chung in the 40th Precinct. And they are talking
17 an arrest with me at the car on the scene on 12-8-06. But
18 they never want to actually produce when the arrest became
19 valid in their case. They deleted the third arrest which
20 made this arrest legal, and which actually made this
21 arrest. But it also makes the 33rd arrest illegal under
22 Huntley and Dunaway.

23 THE COURT: Can I respond?

24 THE DEFENDANT: Yes.

25 THE COURT: Respectfully, Mr. Wells, you are

1 misapprehending the law, and you are focussing on something
2 that doesn't matter.

3 The question that matters with respect to your
4 arrest is whether there was probable cause to arrest you.
5 During the hearing, I determined that there was probable
6 cause to arrest you. I understand it was for DWI, and I
7 understand that subsequent to that the police arrested you
8 for robbery, and I understand subsequent to that they
9 deferred the proceeding on the DWI, and they arrested you
10 again later on the DWI, and then the DWI was never
11 prosecuted.

12 Right? Is that what happened?

13 MS. GROVES: It was deferred until January of
14 2007, when he was arrested and then prosecuted in the
15 Bronx.

16 THE COURT: And then what happened to the
17 case, the DWI?

18 MS. GROVES: He went to hearings. Represented
19 himself. Pled guilty. While having pled guilty on the
20 instant case, serving 20 to life, that case was reversed.
21 And our understanding, from conversations with the Bronx is
22 it got sent back, and then it either got affirmatively
23 dismissed or 30.30'd, but they did not pursue -- They did
24 not re-pursue the case when it was returned to them.

25 THE COURT: Mr. Wells, the only thing I am

1 trying to say to you, all these subsequent machinations
2 that happened, after you were arrested with what I found
3 was probable cause, all these subsequent things that
4 happened don't give any claim to dismiss this case. That's
5 what I am trying to explain.

6 THE DEFENDANT: Okay --

7 THE COURT: It doesn't give you any relief.

8 THE DEFENDANT: It does give a valid claim
9 under Dunaway.

10 THE COURT: No, it doesn't.

11 THE DEFENDANT: We had a Dunaway, Huntley
12 Hearing --

13 THE COURT: I am trying to explain you it
14 doesn't.

15 THE DEFENDANT: My position is this -- this is
16 for the record -- is that the arrest, since we had the 33rd
17 over here, and he is talking about picking me up from the
18 40th Precinct on an arrest, I don't understand how it is
19 that the People can preclude an actual arrest that made my
20 arrest in the 40 Precinct valid.

21 THE COURT: Nobody is precluding anything.

22 THE DEFENDANT: They haven't brought it out.

23 MS. MESSINA: I don't think he means preclude;
24 I think he means, how they can defer it, and therefore,
25 validate the 33rd arrest.

1 THE COURT: You might like the law to be as
2 you are describing it, and that's great. We can have a
3 system where what happened to you, and what the People did,
4 would be, like, completely unlawful, and would result in
5 the suppression of all the evidence against you. Sorry
6 that's not what the law is. The law is that you were
7 arrested with probable cause; that's what happened. Once
8 you are arrested with probable cause, the fact that they
9 deferred that arrest to a subsequent date, or they arrested
10 you for other things, doesn't give you any relief in terms
11 of suppressing any of the evidence that was recovered with
12 respect to you, whether it's your statement, the
13 identification procedure, or anything else. So you are not
14 understanding what the law is on this point, and you keep
15 focussing on it, and I know you are very focused on it.
16 Sorry, it doesn't get you anywhere.

17 THE DEFENDANT: I understand. And that's your
18 ruling.

19 I just wanted to respectfully say, the Court of
20 Appeals Judge in the dissent, when he threw this case out
21 -- by the way the People did not show up to Judge Seth
22 Marvins in the Bronx -- they dismissed with prejudice.

23 And what I am saying is, to you, is this, Your
24 Honor, the fact of the matter is that on under Dunaway and
25 Huntley, if the arrest is illegal --

1 THE COURT: The arrest wasn't illegal.

2 THE DEFENDANT: Wait a minute. In totality --

3 THE COURT: No, not in totality.

4 Can I explain this to you?

5 When the police find you allegedly slumped over in
6 the car --

7 THE DEFENDANT: Right.

8 THE COURT: -- drunk, and arrest you for DWI,
9 the question is, at that moment, did they have probable
10 cause to arrest you. The question is not what happened two
11 months later with respect to the case. The question is
12 when they initially arrested you, did they have the right
13 to arrest you? I found they did. End of story with
14 respect to this questions.

15 (Continued on next page, by Donna Kern, Senior
16 Court Reporter.)

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(Continued from previous page.)

2 THE DEFENDANT: So me being taken to the 33 --

3 THE COURT: Doesn't matter.

4 THE DEFENDANT: From the 40 --

5 THE COURT: Doesn't matter.

6 THE DEFENDANT: A valid arrest taking place on
7 1-31-07, making the 12-8-06 arrest legal, because before
8 then, it was not a completed arrest.

9 THE COURT: You don't understand.

10 The question is --

11 They did arrest you on the day you crashed the
12 car. The question, among other things, is: Did they have
13 probable cause to arrest you on that day? That's it on
14 that question.

15 THE DEFENDANT: There's no Huntley hearing.

16 THE COURT: We had a Huntley.

17 THE DEFENDANT: And the hunt leap goes to the
18 statement being taken from me at 33rd Precinct on an
19 invalid arrest.

20 THE COURT: I found it a valid arrest.

21 THE DEFENDANT: Bus the arrest doesn't stop
22 right there.

23 THE COURT: It does stop right there for
24 purposes of the Dunaway component of the hearing. That's
25 exactly where it stops. Were you arrested with probable

1 cause? Yes or no? Yes. That's it.

2 THE DEFENDANT: And the statements was not taken
3 there --

4 THE COURT: I understand. I know what happened.
5 I sat through the hearing.

6 THE DEFENDANT: And he pick me up from --

7 THE COURT: He went from the Bronx to the 40th
8 to the 33th. You went from DWI to Robbery.

9 I understand. I get the chronology.

10 THE DEFENDANT: Last but not least, there is no
11 valid deferred prosecution form.

12 THE COURT: It doesn't matter. That's what I am
13 trying to explain to you.

14 We will see you at 10 o'clock on Monday.

15 MS. MESSINA: Judge, can I give you this case?

16 THE COURT: That's fine.

17 (Whereupon, the parties were excused by the
18 Court.)

19

20

21 Certified to be a true and accurate transcript to the best of
22 my knowledge, skill and ability.

23

24 _____
25 Donna Kern
 Official Court Reporter

#3.

vee

Friedman, J.P., Tom, Kapnick, Singh, JJ.

6145 In re Carl D. Wells,
[M-6508] Petitioner,

Ind. 6548/06

41/07

O.P. 134/17

-against-

Warden Ada Pressley, et al.,
Respondents.

Carl D. Wells, petitioner pro se.

Eric T. Schneiderman, Attorney General, New York (Michael J. Siudzinski of counsel), for Hon. Kevin McGrath, respondent.

District Attorney, New York (John T. Hughes of counsel), for
Cyrus R. Vance, Jr., respondent.

The above-named petitioner having presented an application to this Court praying for an order, pursuant to article 78 of the Civil Practice Law and Rules,

Now, upon reading and filing the papers in said proceeding, and due deliberation having been had thereon,

It is unanimously ordered that the application be and the same hereby is denied and the petition dismissed, without costs or disbursements.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: MARCH 29, 2018



DEPUTY CLERK



*State of New York
Court of Appeals*

*John P. Asiello
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

Decided June 7, 2018

SD 27

the Matter of Carl D. Wells,
Appellant,
v.
Warden Ada Pressley, et al.,
Respondents.

Appeal dismissed without costs, by the Court sua sponte, upon
the ground that no substantial constitutional question is directly
involved.

Judge Feinman took no part.

State of New York

Court of Appeals

*Decided and Entered on the
seventh day of June, 2018*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*

SSD 27

In the Matter of Carl D. Wells,
Appellant,

v.

Warden Ada Pressley, et al.,
Respondents.

Appellant having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

ORDERED, that the appeal is dismissed without costs, by the Court

sua sponte, upon the ground that no substantial constitutional question is directly
involved.

Judge Feinman took no part.


John P. Assello
Clerk of the Court

5. (6 of 6) pgs
NEW YORK STATE : COURT OF APPEALS
Chief Clerk, Mr. John P. Asiello, (j)
20 Eagle Street
Albany, New York
12207-1095

APP (#)
RE: Matter of Wells v. Presley, et. al.
App. Div. O.P. No. 134/17
N.Y. Co. Ind. No's 6548/06, 0041/07

Dear Mr. Asiello:

Respectfully, I am the Pro-se Petitioner, Carl Wells. I am submitting this Response in opposition to the Respondent, (ADA)* John T. Hughes, and his Opposing Brief received by me on the 5th of December, 2018, located at my new Facility, (RNDC) at 11-11 Hazen Street, East Elmhurst, Ny 11370.

1. The Petitioner request that this Court issue an emergency Stay on a Lawyers Conflict, (ADA) Courtney Groves and The People's moving Petitioner into a Trial as of, January 3rd, 2019, as this Court's Jurisdictional Review is pending. Moreover, The Same Assistant District Attorney, (ADA) Courtney Groves, thats subject of Newly Exhibited Evidence, i.e., Transcripts dated, October 2nd, 2018, Before Hon. Justice Curtis Farber, N.Y. County, Part (TAP-B), is leading Assistant District Attorney in trial proceedings.
2. It is requested that this Court Grant an emergence Stay due to this (ADA), Ms. Grove attempting to preclude a related issue thats before this Court. Moreover, a issue that, if granted by this Court, would create a Collateral Esstoppel to any mention of said issue. It is claimed that (ADA) Groves made a stipulation without knowledge of this Petitioner with, Hon. Judge Conviser, and Ms. Toni Messina, that the Jury, In Jury Selections and Trial Proceedings would be told that, "THE 12_YEAR DELAY IS ATTRIBUTED/AND OR IS NOT THE FAULT OF EITHER THE PROSECUTION/GOVERNMENT". The first state-ment took place on, Jan 10th, 2019, and a Second Time on, Jan 11th, 2019, that caused a recusal request by the defense, also, Disquali-fication Motion sent to the Administrative Judge of 111 Centre St.
3. Moreover, A Supreme Court Justice cannot lie to potential jurors.
(SEE: EXHIBIT (A): MOTION TO DISQUALIFY)*

PAGE TWO:
Chief Clerk, John P. Asiello
NYS COURT OF APPEALS
(3-Continued)

- I am claiming Prosecutorial Misconduct, (See; People v. Savvides, 1 NY2d 554 (1954)). In that, this was an intentional act by (ADA) Groves to get around an Esstoppel Issue, upon any final ruling by this Court. Simply put, (ADA) Groves should have told the Justice on, January 3rd, 2019, before the starting of any trial, and/or upon such stipulation, that a parallel issue exist within the NYS Court of Appeals, in which a Statement that she made during a regular court proceeding on, Oct 2nd, 2018, is pending in the High Court on Habeas Corpus.
- 4. The Respondent is without understanding that a Constitutional Governmental Delay issue is before this Court, with a Prosecutorial related question, after Newly Discovered Evidence came out of the mouth of (ADA) Courtney Groves, admitting to guilt of the New York County Prosecutions Office, for not telling anyone for years that they always have known where the ~~ma~~ Missing Files/Boxes were. Newly Discovered facts! Yet, the Respondent never rebutted the Interest of Justice Standard within, (CPLR 2221 Subd (e), and the Judges ability to relax the requirements in his decision).
- 5. The Respondent's continue to run from the central issue and this Court should, (1). Stay The Lower Court Trial located in, Part 95, 111 Centre Stree, Before Judge Conviser, and (2). Grant a hearing, and/or request that the Respondent's rebut said issues on their merits, or (3). Grant Writ of Habeas Corpus and Dismiss said Indictment's Due to Prosecutorial Misconduct/Negligence, that Cause a Governmental, Prosecutorial Delay of more than (6) Six Years.

WHEREFORE, THE PETITIONER PRAYS FOR AN ORDER
GRANTING ANY RELIEF THAT THIS COURT DEEMS,
JUST, PROPER AND EQUITABLE.

TO: (ADA) JOHN T. HUGHES,
APPEALS BUREAU,
ONE HOGAN PLACE, NY,
NY 10013

By, Petitioner, Carl Wells
(B & G#895150-1236)
RNDG FACILITY, 11-11 Hazen
Street, East Elmhurst, Ny
11370

Carl Wells
Carl Wells
dw

EXHIBIT (A): FOR HABEAS CORPUS
NYS COURT OF APPEALS.*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : PART _____

-----X
The People of The State of New York

Respondent's

-against-

CARL WELLS,

Defendant, Pro-se.

NOTICE OF MOTION TO
DISQUALIFY HON. JUDGE
CONVISER, Part (95).
JUDICIAL LAW §14, AND;
§100.3(A)(4)(9)(b)],
Recusal Requested.

Indict #'s0041/07
6548/06

Hon. Judge ELLEN BIBEN*

-----X
SIR/MADAM:

PLEASE TAKE NOTICE, that upon the annexed Affidavit of, CARL WELLS, being duly sworn under oath and pursuant to all prior proceedings--- held herein, the undersigned will move this Administrative Supreme Court Justice, located at 100 Centre St, Courthouse, Ny Ny 10013, On The 18th Day of January, 2019, or as soon thereafter as Counsel may be heard, For A Set of Orders, Forcing, Justice Conviser In Part (95) To Recuse himself and/or for this Court to Disqualify this Judge and assign this case to a new Justice of this Court, Ordering a Mistrial due to comments that would affect the outcome of this case, and or any other and further relief that this Court may deem, Just, Proper and equitable.

Dated: January 11th, 2019
Bronx County, New York State.

By; Carl Wells, Defendant
Pro-se


Signature

TO: Hon. Cyrus Vance Jr.,
NY COUNTY D'A

TO: Defense Counsel,
Toni Messina, Esq

TO: HON. LAWRENCE MARKS,
CHIEF ADMINISTRATIVE JUDGE
FOR NEW YORK STATE.*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK : PART _____

-----X
The People of The State of New York

Respondent(s),

-against-

CARL WELLS,

Defendant, Pro-se.

AFFIDAVIT IN SUPPORT TO,
NOTICE OF MOTION TO
DISQUALIFY HON. JUDGE
CONVISER, Part (95).
JUDICIAL LAW §14, AND;
§100.3(A)(4)(9)(b)],
Recusal Requested.

Indict #'s 0041/07
6548/06

Hon. Judge _____

-----X
STATE OF NEW YORK)

COUNTY OF BRONX)

SS.:

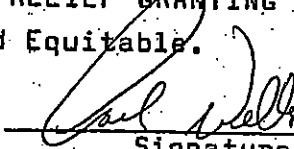
CARL WELLS, being duly sworn, deposes and says that:

1. I am the defendant and have been assigned counsel in this case by the name of, Ioni Messina, Esq. I am claiming that this Attorney is under, Srickland, 466 US 668, and Baldi, 54 NY2d 137, concerning this allegation, therefore, it is being made by, Pro-Se Motion. I am fully familiar with the facts herein.
2. The defendant started jury selection proceedings in Part (95), and upon the numerous complaint's made by potential juror's, concerning a 12-year delay in taking defendant back to trial, the Court, Judge Conviser made the following statement to some questions, as follows: DATED: JANUARY 10th, 2019, First., "Why is this case 12-years old?" QUoting: "All I can tell you is that it's no fault of either the People or Defense".
3. After the jury left, I objected and claimed that he lied to the jury, that the Government/Prosecution, and/or Clerks, through Negligence, caused the delay by lost Boxes of files.
Judge Conviser said, *inter-alia, that "defense counsel and the district attorney conceded to this statement to equal the issue."

PAGE TWO:
AFFIDAVIT IN SUPPORT
(Page two:)

4. On January 11th, 2019, during jury selections, once again, jurors were having problems with the 12-year delay and asking why, also claimed that they could not get around this issue without a reason for the delay? Once again, Judge Conviser instructed them as before, "The People nor Defense had anything to do with this delay, thats all I can tell you". I objected and moved for a Mistrial, also, without my lawyers input, after the jury was removed, also made an application for Judge Conviser to recuse himself.
5. Judge Conviser stated that he had no reason to and denied Mistrial Application. Judge Conviser ask me why it mattered if the jury did not know the reason for the delay? I explained to him that, If the Jury hears that the delay of 4 to six years was on the Government in losing my files, then, it should be possible for them to find that the defendant, may be guilty, yet, has done enough time due to Governmental Delay, 8½ years on Rikers Island, and 4-years Up-State. Judge Conviser cannot tell a jury false/lies, nor make stipulations with Attorney's that amounts to false lies to a jury in Jury Selections. At any time the truth comes out, this Judge has infact lied. I'm requesting that this Court read all transcripts dated, October 2nd, 2018, Farber (j), Part Tap-8, January 3rd, 2019, Parts Tap 8 & Part 95 111 Centre Street, Ny Ny 10013 and, 4th, 7th, 8th, 9th, 10th & 11th of January, 2019, as the errors amount to a denial of a fair & impartial Trial. Moreover, the Courts comments should not be swayed by anything other than the merits of the case. People v. Rowley, 48 Misc.2d 26, also see, Van Schaick v. Carr, 159 Misc. 873 (1936) (NY COUNTY*).
6. I am requesting that this Court Grant A Mistrial for Judge Conviser lying to a Jury Panel during jurying selection questioning. WHEREFORE, THIS DEFENDANT PRAYS FOR RELIEF GRANTING APPLICATIONS, and any other relief Just, Proper and Equitable.
SWORN TO BEFORE ME THIS 14th
DAY OF JANUARY, 2019.

NOTARY PUBLIC
FATAL O LAVAL
NOTARY PUBLIC STATE OF NEW YORK
No. 021A6135566
Qualified in Queens County
My Commission Expires October 24, 2021


Signature

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF BRONX) ss:

I, CARL WELLS, being duly sworn deposes and says:

That I have on the 12 day of January, 2019, placed and

submitted the original and copies of this motion to be duly mailed via the United States

Postal Service, through the institutional mailroom of the RNDC 11-11 Hazen St,
East Elmhurst, Ny, 11370,

Correctional Facility. Said moving papers were mailed to the following concerned
Reply To Opposing Pappers, Wells v. Pressley,

parties: NYS COURT OF APPEALS : HABEAS CORPUS,

~~Commissioner & Superintendent
NYS Department of Correction
State Office Building campus
Building #2
1220 Washington Avenue
Albany, New York 12226 - 2050~~

NEW YORK STATE COURT OF APPEALS
Chief Clerk : John P. Asiello,
20 Eagle Street,
Albany, Ny 12207-1095

NEW YORK COUNTY DISTRICT
ATTORNEY'S OFFICE, APPEALS
BUREAU, ONE HOGAN PLACE,
NEW YORK, NY 10013.

~~Supreme Court~~

~~County~~

Yours, etc...


DEFENDANT
Carl Wells Petitioner

Sworn to before me this
12 day of January, 2019.


NOTARY PUBLIC / COMMISSIONER OF DEEDS

ADJANIE CRUZ
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01CR6382139
Qualified in Bronx County
Commission Expires October 22, 2022

6

NO. 2018-1144
NEW YORK STATE: COURT OF APPEALS

Ind. No.'s 0041/07 & 6548/06
App. Div. No. 134-17 First Dept.
NEW YORK STATE

IN THE
SUPREME COURT OF THE UNITED STATES

CARL WELLS - PETITIONER

VS.

Warden, (Ada) Pressley, et. al. - RESPONDENT(S)

MOTION FOR LEAVE TO FILE THE PETITION "OUT OF TIME"

The petitioner asks leave to file the attached petition for a out-of-time writ of certiorari.

Please check the appropriate boxes:

☐ Petitioner has previously been granted leave to proceed in *forma pauperis* in the following court(s):

The New York State Court of Appeals.

The N.Y.S. Supreme Court Appellate Division First Department.

☐ Petitioner has not previously been granted leave to proceed in *forma pauperis* in any other court.

☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is not attached because the court below appointed counsel in the current proceeding, and:

AFFIDAVIT OR DECLARATION

1. In support of Motion to File Petition Out of Time, I, Carl Wells, am the petitioner in the above - entitled case. In support of my motion to file petition out-of-time, I state that: (1), the lower court's determination is erroneous and a violation of statutory law pursuant to, NY McKinney's, Civil Procedure Law and Rules (C.P.L.R.), §2221 subdivision (#) and it's Rules concerning, "Interest of Justice" Rulings.

2. See, Mejia v. Nanni, 304 A.D.3d 870 (1st Dept 2003), cited in Petitioner's Notice of Motion to Reargue/Renew in the Interest of Justice, dated Nov. 10th, 2018, with attached Affidavit in Support. (See: **Exhibit (A)**; (11 of 11 pages) with included cover page letter dated, 10-31-18. (See **Exhibit (B)**; Letter dated, June 26th, 2017, also see; **Exhibit (C)**; "Affirmation in Opposition to Defendant's Motion").

3. The very reason that the petitioner Reargue/Renewed his writ is due to a set of events; two of which happens to detail the issue. (A). On October 31st, 2018, located in Part Tap (B), before the Hon. Judge Curtis Farber. (ADA) Courtney Groves turned over duplicate copies of the court files, w/a discovery list of a 157 items listed. (B). On Oct. 2nd, 2018, (ADA) Courtney Groves admitted to guilt by his office. Including newly discovered evidence, claiming that "Her Office always knew where the files were. (See **Exhibit (D)**: Transcript - October 2nd, 2018, pages (1 & 10).) Also see, Certiorari Appendix (F), letter to, N.Y.S. Court of Appeals, In RE: Wells v. Pressley, et. al. w/ attached exhibit motion

to disqualify Hon. Judge Conviser, PT 95, 111 Centre Street, NY, NY dated January 11th, 2019.

4. The reason for reconsideration: The issue of Governmental Delay was brought back into light, N.Y. State Office of Court Administration dated, June 26, 2017, claiming that "duplicate copies of the court files is located in Part Tap (B)". Etc.? Why is it that 16 months went past, until Oct. 31st, 2018, until a trial took place. Not to mention the fact that, (ADA) Robert Walker was removed on Sept. 6th, 2018 by his supervisor for "Wrong Doings", like, telling the truth, that "the files were lost again", May 2017.

5. (CPLR) 2221(e), Has been used in many criminal matters to Renew/Reargue, by "Relaxing the requirements and granting relief in the "Interest of Justice". Yet, newly discovered facts were produced. Therefore, justifying the instant writ for reconsideration, the petitioner was not and is not "Out of Time".

6. A fundamental miscarriage of Justice has taken place by the 7 year delay, due to lost files that were never found. Everything was missing in the erroneous trial and the petitioner is requesting emergency review jurisdiction under "Compelling Reasons", Rule 10, Sup. Ct., also, Sup. Ct. Rule 20, "Extraordinary Writ" pursuant to, 28 U.S.C. § 1651(a). Moreover, a request to actuate jurisdiction under, 28 U.S.C. § 2254(a), and Grant Habeas Corpus Relief.



7. I declare under penalty of perjury that the

foregoing is true and correct. [28 U.S.C. § 1746].

Executed on: May ____, 2019
Stormville, New York 12582

Signature Pro. Se.

OAD OFFICE OF THE
APPELLATE
DEFENDER

11 Park Place, Suite 1601, New York, NY 10007 | Tel. 212 402 4100 | Fax 212 402 4199
oadnyc.org  fb.com/oadnyc  @oad_nyc

Susanna Molina Rojas
Clerk of the Court
Appellate Division, First Department
27 Madison Avenue
New York, NY 10010

January 19, 2023

Re: *People v. Carl Wells*
N.Y. Indictment Numbers 6548/06 & 41/07

Dear Ms. Rojas:

Upon review of the file in the above-referenced case, we identified that the following documents were missing from the record initially provided to us:

- VDF,
- Omnibus Decision and Order,
- Notice of Omnibus Motion, and
- DA's Response to Omnibus Motion.

We received the missing documents on April 13, 2022 and deem the record almost complete as of that date.

Sincerely,

David Bernstein
Managing Attorney


By: Alan J. Litwa

Cc: N.Y. District Attorney
danyappeals@dany.nyc.gov

SL 032

8 (202) JMS

OAD OFFICE OF THE
APPELLATE
DEFENDER

11 Park Place, Suite 1601, New York, NY 10007 | Tel. 212 402 4100 | Fax 212 402 4199
oadnyc.org  fb.com/oadnyc @oad_nyc

Hon. Lewis J. Liman
United States District Court Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Paul Lyons, Assistant Attorney General

By email to paul.lyons@ag.ny.gov

January 26, 2023

Re: *People v. Carl Wells*, N.Y. Ind. Nos. 6548/06, 41/07

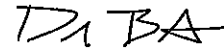
Dear Judge Liman:

Mr. Lyons has indicated that Your Honor was requesting an update on the status of Mr. Wells's appeal for the above-referenced New York County conviction. Unfortunately, the Appellate Division First Department, which assigned the Office of the Appellate Defender ("OAD") to represent Mr. Wells on this appeal more than three years ago, has still not provided us with a fully complete record on appeal. To date, and in piecemeal fashion, we have been provided with thousands of pages of transcripts and record papers, and yet we are still missing an entire day of the voir dire (and possibly evidentiary arguments) that preceded opening arguments, as well as a handful of the motions filed in or decisions issued by the trial court. In the interim, we have collected hearing and trial exhibits from the prosecution and the trial attorney's voluminous file.

We are hopeful that the Appellate Division will provide us with the missing materials in the coming months, and optimistic that we will be assigning the case to an attorney upon receipt of those materials, if not earlier.

I am happy to answer any other questions Your Honor may have about this case, and can be reached by telephone at 212-402-4100, ext. 41.

Sincerely,

A handwritten signature in dark ink, appearing to read 'DA BA' with a stylized flourish at the end.

David Bernstein
Deputy Attorney in Charge

Cc:
Mr. Carl Wells

9

EXHIBIT

CENTER FOR APPELLATE LITIGATION

74 TRINITY PLACE - 11TH FLOOR, NEW YORK, NY 10006 TEL. (212) 577-2523 FAX 577-2535

ATTORNEY-IN-CHARGE
ROBERT S. DEAN
DEPUTY ATTORNEY-IN-CHARGE
ELAINE E. FRIEDMAN
ASSISTANT ATTORNEY-IN-CHARGE
MARK W. ZENO
SENIOR SUPERVISING ATTORNEYS
ABIGAIL EVERETT
BARBARA ZOLOT
SUPERVISING ATTORNEYS
DAVID KLEM
CLAUDIA S. TRUPP

SUPERVISING ATTORNEY
CLAUDIA S. TRUPP

(212) 577-2523 EXT. 512
ctrupp@cfa.org

Mr. Carl Wells
11-A-1747
Attica Correctional Facility
639 Exchange Street
Attica, New York 14011-0149

Dear Mr. Wells:

I am an attorney with the Center for Appellate Litigation and I have been assigned to represent you on your direct appeal. Today, on April 2, 2012, I filed a motion for a reconstruction hearing to reconstruct a portion of the Mapp/Wade/Huntley hearing in your case. Enclosed please find a copy of the motion for your records.

I am writing to explain to you why we moved for a reconstruction hearing. When we received your record, the minutes from the arguments made on December 17, 2008 during the Mapp/Wade/Huntley hearing were missing. Instead, the record contained an affidavit from the Court Reporters' Office, stating that the court reporter responsible for transcribing the minutes of your hearing on December 17, 2008 has not been at work since March 17, 2011 and, as such, the Court Reporters' Office has been unable to obtain the portion of the transcript from that date.

In order to identify any appealable issues in your case, it is important to learn what arguments were made during your hearing on December 17, 2008. For this reason, we filed a motion requesting that the First Department order a reconstruction hearing. If the court grants the motion, we will have a hearing at which you will be present. During the hearing, both the parties will try to "reconstruct" what happened on December 17, 2008, by calling witnesses who were present on that date and relying on any notes or documents from that hearing. There is also the possibility that in response to the motion, the court reporter may produce the minutes.

I will keep you apprised of the status of our motion and of any other new developments related to your appeal. If you have any questions or concerns in the meantime, please do not hesitate to write me.

Very truly yours,

Claudia Trupp
Claudia Trupp

Daily new post 4.3.14
KORHANSHI
April 2, 2012

W.S. Sup Ct
CO. of App.
(S.D.N.Y.) Present
Filed Mar. 2012
I had
TRANSCRIPTION
W
ReCons from 11-
12/17/08

10 (2052) ps SEE: EXHIBIT "H"

McGRATH
()

CENTER FOR APPELLATE LITIGATION

74 TRINITY PLACE - 11TH FLOOR, NEW YORK, NY 10006 TEL. (212) 577-2523 FAX 577-2535

May 1, 2013

Mr. Carl Wells
DIN 11-A-1747
Attica Correctional Facility
639 Exchange St.
Attica, NY 14011-0149

Dear Mr. Wells:

I am writing in response to your letter dated 4/24/13. Thank you for your kind thoughts.

I believe that I have found the Bellevue hospital records that you asked for previously. I have made copies of those records for our files, and am now returning the originals to you. They are enclosed. If I sent you the wrong records, please contact me, and I will do my best to find the correct ones.

You asked how many extensions a court reporter has, to transcribe the minutes. As far as I know, court reporters are not granted a set amount of extensions. However, because court reporters are paid by the page for minutes that they transcribe, they are motivated to transcribe as many minutes as they can, as quickly as possible.

You also asked about how we will use the affidavits by the court reporters about certain dates, regarding their inability to find those minutes. We are not yet sure how we will be able to use those affidavits. For instance, one issue we are exploring is whether there is a constitutional speedy trial claim. We may be able to raise that issue even without knowing what is in the missing minutes.

However, there are ways that we can use those affidavits: if enough records and minutes are missing that we are unable to effectively represent you on appeal, then we can argue that the Appellate Division must vacate your plea. Otherwise, your right to an appeal has been harmed. This argument will be strengthened by the fact that the court lost two big boxes of records relating to your case. The loss of those records is referenced in the minutes of your reconstruction hearing.

As of right now, however, while we may be able to use the affidavits on appeal, we do not see a way to use them as part of a motion for post-conviction relief.

I have not done sufficient research to answer your question about how Mr. Fenstermaker's interjections will affect your other claims. It may be that his interjections will

affect your Faretta claim, or a claim involving your right to proceed pro se. However, without a complete record, I cannot answer those questions at this time.

You also asked about your 30.30 motion. A defendant technically waives all of his arguments relating to a 30.30 motion if he pleads guilty. I believe I understand your question, about how Mr. Fenstermaker's request for transcripts, and how the court's request to re-order your transcripts, would affect the 30.30 motion calculations. Unfortunately, even those claims are waived by a guilty plea. However, in my April 17, 2013, letter, I noted that we can still raise a related claim: that your plea was involuntary because you believed that you could still argue your 30.30 motion after the plea was taken. If that argument succeeds, then your plea will be vacated, and you will be remanded to trial court, where you will be able to make your 30.30 motion argument, including the arguments you outlined to us in your correspondence.

Thank you very much for your thoughts and well-wishes. I hope you are well.

Very truly yours,


Claudia Trupp

#11. (444)pg

copy/returning 1/2/08/8646

EXHIBIT (A): QMOMO

EX (A) (B) (C)

1 SUPREME COURT STATE OF NEW YORK

2 COUNTY OF NEW YORK CRIMINAL TERM PART: 32

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK

Indict No.:

6548/06

41/07

5
6 -against-

Calendar Call

7 CARL WELLS,

8 Defendant

9 -----X

100 Centre Street

New York, New York

September 18, 2012

11 B E F O R E

12 THE HONORABLE GREGORY CARRO, Justice

13
14 A P P E A R A N C E S:

15 CYRUS VANCE, JR., ESQ.,

District Attorney, New York County

16 One Hogan Place

17 BY: ROBERT WALKER, ESQ.

Assistant District Attorney

18 CENTER FOR APPELLATE LITIGATION

19 74 Trinity Place

New York, New York

20 BY: CLAUDIA TRUPP, ESQ.,

Attorney for Defendant

21 Carl Wells

PROCEEDINGS

1 COURT CLERK: This is going to be number three and
2 four on the calendar, 6548 of '06 and 41 of '07, Carl Wells.

3 MS. TRUPP: Claudia Trupp, T-R-U-P-P. Center for
4 Appellate Litigation on behalf of Mr. Wells.

5 Good morning, your Honor.

6 THE COURT: Good morning.

7 MR. WALKER: Robert Walker for the People. Good
8 morning.

9 Your Honor, I know on the last date the defense
10 counsel had filed an affidavit stating that there was an
11 affidavit from a reporter Huntington that they were unable
12 to locate the notes from December 17, 2008. But as we had
13 previously stated, December 17, 2008 was just an adjourn
14 date and that was handled by a reporter Kochanski and that
15 had been misfiled because I know somehow the main files were
16 missing. We had already provided those minutes so there are
17 no additional minutes from that date, it was just put over.
18 The other five days on which the hearing was on, we had
19 provided last time and the time before that so those are the
20 only dates that I think should be concentrated on. We're
21 just trying to reconstruct that hearing.

22 MS. TRUPP: Your Honor, we're in receipt of both
23 the affidavit, the minutes from December 17, 2008 as well as
24 the affidavit from Denise N. Huntington of the court
25 reporter services saying there were no notes and

PROCEEDINGS

1 Mr. Kochanski's alleged transcript from that day. Obviously
2 it's a little confusing, one says there is no notes, one
3 provides a transcript.

4 In addition, there is a problem as we previously
5 discussed that we have lost two bankers boxes full of
6 documents both with respect to this case, at this point we
7 don't feel that there is anything more that the court can do
8 to reconstruct beyond the efforts that the parties have made
9 to date.

10 We have received your Honor's decisions on the
11 matter. We have made attempts to be in touch with the
12 standby counsel, as your Honor is aware, that well proceeded
13 pro se so there is really nothing further that the court can
14 do at this time and what we're going to have to do, as your
15 Honor suggested, order every single date of his proceedings
16 and expand the judgment ruling to include those so that's
17 how we intend to proceed at this time. There is no further
18 movement in obtaining further records from all the various
19 records that we've pursued; contacting the defense attorney,
20 you know we requested every exhibit from the prosecution, at
21 this point we believe that further efforts on the part of
22 the court and on the part of the parties are futile and we
23 would like an order to that effect so we can
24 ordering every court date and expanding the
25 Honor suggested.

PROCEEDINGS

1 THE COURT: So ordered. Do you have an order?

2 MS. TRUPP: If you can just say so ordered and
3 I'll order the minutes.

4 THE COURT: So ordered.

5 MS. TRUPP: Well, is there anything you would like
6 to put on the record at this time?

7 Just to be clear with respect to both the boxes
8 and the minutes, there is no further efforts that can be
9 productive at this time?

10 THE COURT: That's correct.

11 MS. TRUPP: Thank you, your Honor.

12 (Proceedings concluded.)

13 * * *
14 C E R T I F I C A T E

15
16 I, Sheila Wesley, Senior Court Reporter, of the State of
17 New York, do hereby certify that the foregoing is a true and
18 accurate transcript of my stenographic notes.

19 Sheila Wesley
20
21
22
23
24
25

12 (3 of 3) pgs

NEW YORK STATE UNIFIED COURT SYSTEM
JUDICIAL COMPLAINT

JUNE 11TH, 2012

TO: U.S. COURT OF APPEAL'S
FOR THE SECOND CIRCUIT
CHIEF JUDGE : HON. DENNIS JACOBS, (j).

TO: U.S. DISTRICT COURTHOUSE
SOUTHERN DISTRICT OF NEW YORK
(U.S.D.J.) JOHN KOELTL, (j).

TO: NEW YORK STATE : COURT OF APPEAL'S
(CHAMBER'S : HON. JONATHAN LIPPMAN),
CHIEF JUDGE

TO: WASHTENAW COUNTY COURTHOUSE
STATE OF MICHIGAN
22ND CIRCUIT : CHAMBER'S
HON. DONALD E. SHELTON, (j).

TO: MAYOR MICHAEL BLOOMBERG
CITY HALL, N.Y.C. 10007

RE: CARL DOUGLAS WELLS (N.Y. COUNTY IND. NOS: 6548/06, 41/07)
(NYSID#: 059157945/DIN#11A1747)

SUBJECT: JUDICIAL CONSPIRACY * MANUFACTURED STENOGRAPHIC NOTES, DISKS
AND TRANSCRIPT'S * FOUL PLAY * DELAYED DIRECT APPEAL *

HONORABLE SIRS:

PLEASE BE ADVISED, that upon written notice dated, April 2, 2012, and from assigned (18-B COUNSEL), Robert S. Dean, Esq., I was advised that a motion was filed "today, on April 2nd, 2012", to reconstruct a portion of an Mapp/Wade/Huntley hearing related to the above indictment's and my conviction and appeal.

It should be noted that before this letter was mailed to me, I was not advised by the Office of Robert S. Dean, who was assigned to perfect my appeal. I found out by this letter, with a enclosed motion, that I was being represented by, Supervising Attorney, Claudia S. Trupp, Esq. SEE: EXHIBIT (A). LETTER DATED 4/2/2012.

After I reviewed the notice of motion and supporting affidavit, along with attached exhibit's. I reviewed an exhibit called an "Affidavit" By Leslie Greaves of 111 Centre Streets, Court Reporter's Office and dated, 9-27-11. SEE: EXHIBIT (B). In short, this letter noted that Mr. Daniel Kochanski has not been present at work since March 17th, 2011, "Moreover, this office has made a concerted effort in trying to locate Mr. Kochanski's Stenographic notes and/or disks" Etc.

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I also reviewed another exhibit dated, March 29th, 2012, a set of three separate letters under one exhibit, all dated the same and the same wording within. These letters only referenced the fact that "we are unable to locate the stenographic notes and disks of the court reporter who was present." Yet, attached Ms. Greaves Affidavit. The letters were addressed to, "Hon. Judge Gregory Carro, N.Y. County, Part 32, See; Exhibit (C), also to, Robert Harold, Legal Aid Society, and New York County District Attorney's Office, Appeal's Bureau.

I was very up-set with the fact that I was not asked for my notes and/or memory of what took place since I represented myself in these hearings. Infact, Robert Harold did not say a word, at all! This was a flag to me. You see, on November 24th, 2008, the date after (ADA) Fistel took the stand concerning claims of manufactured document's, arrest event's etc., I made numerous request to call a Bronx (ADA) to the stand concerning his signature, involvement with deferring my arrest from the Bronx to Manhattan. I made motions concerning Double Jeopardy and Judge Carro scheduled the next date of, December 17th, 2008. SEE: EXHIBIT (D). Hearing Transcript's dated, Nov 24th, 2008, pages 24, 25, 26 & 29.

Since I had a pending appeal in the First Dept App. Div., (Bronx County Docket No.: 65936-06), and filed Brief's by, Adrienne Hale, Esq., of the Legal Aid Society and my own Pro-se Supplemental Brief related to the Deferred Arrest event. I mailed a pro-se motion dated, 4-23-2012; requesting a Reconstruction Hearing"/"Consolidation" with the pending New York County Reconstruction Motion request. I mailed the original to the First Dept Clerk, and copies to, Bronx (ADA'S) Nancy Killian, also, Megan R. Roberts and Adrienne Hale, and received letters of the receipt, except from the 1st Dept Clerk. I received a copy of a decision by the First Department, #7743 Docket#65925/06; affirming, by letter dated, May 30, 2012, from Ms. Hale's Office. My pro-se reconstruction motion was not filed by the court clerk?

SEE: EXHIBIT (E): DECISION & ORDER DATED MAY 8TH, 2012 BY 1ST DEPT.
APP. DIV. GRANTING RECONSTRUCTION HEARING.*

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I received my last letter dated, June 1st, 2012, from Claudia Trupp. She went from this court reporter missing for a year (+), to her going to a hearing, without speaking to me to date, by herself and scheduled for June 20th, 2012, and speaking to this missing person who has produced "minutes in several of these cases, including himself", therefore, precluding the need for a "reconstruction hearing.?"

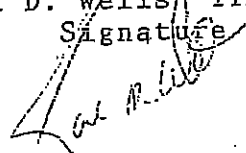
I have made some very foolish decisions, yet, have been through more in New York's Judicial System) than any other Citizen of the United States, or this State, including being lied to by corporate attorney's to stop me from obtaining millions of dollars. I never trusted a lawyer since. Yet, after learning the law & rules of both criminal & civil litigation, I found out that I enjoyed it and it gave me a respect for the law. I play it like a chess game and i'm doing good now.

Yet, within this system, in New York State, these courts must follow the rules of the game. If the rules are broken, the system is also broken and that creates a weak minded individual playing the game. It does not take a lot of thinking to understand the foul play in these listed events (I understand fully and considering the fact that Judge Carró and the Manhattan D'A calculated speedy trial time with this so called set of transcripts, granted a C&L 30.30 motion and then vacated the order to read it as I was forced to plea or trial. Also, considering how I was left inside a bull pen all day as pro se proceedings were being conducted, without my presence. Well, this is yet another complaint that I should not have to make. WHY? SEE: PEOPLE V. HALE, 608 NYS2d 589.*

Yours, Etc.

CC: FILE
ATTY ADRIENNE HALE
ATTY CLAUDIA TRUPP

Carl D. Wells / 11A1747
Signature



B. (458)ps

(F) Exhibit

App-6

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF NEW YORK : CRIMINAL TERM : PART 39
3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK : Ind. Nos.: -07
5 - against - 6548-06,0041
6 CARL WELLS, :
7 Defendant. : ROBBERY 1
8 -----X : PROCEEDINGS

9 100 Centre Street
10 New York, New York 10013
11 October 2, 2018

12 B E F O R E:

13 HONORABLE CURTIS J. FARBER,
14 Justice Supreme Court.

15 A P P E A R A N C E S:

16 For the People:
17 CYRUS R. VANCE, JR., ESQ.
18 District Attorney - New York County
19 BY: COURTNEY GROVES, ESQ.
20 Assistant District Attorney

21 For the Defendant:
22 TONI MESSINA, ESQ.
23 DANIELLE VON LEHMAN, ESQ.
24 (Assigned 18-B Counsel.)

25 ELLEN S. BRUNO
SENIOR COURT REPORTER

Ellen S. Bruno - S.C.R.

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1 even a third of what he had listed in the Rosario
2 materials.

3 What happened subsequent to that, I received a
4 disk which appears to have everything listed on the
5 People's Rosario list. And I provided it to Mr. Wells.

6 Mr. Wells was concerned that this disk was
7 invented in some way. And --

8 THE DEFENDANT: For the record -- for the
9 record --

10 THE COURT: Ms. Messina is speaking.

11 If you continue to interrupt, I will have you
12 removed.

13 THE DEFENDANT: It is a --

14 MS. MESSINA: That, based on the fact that he has
15 been in jail since 2006, and court records were lost, court
16 boxes were lost regarding his case, which stalled the
17 advancement of his appeal, that I believe he believes that
18 the People's records were lost as well at some point, and
19 the appearance of all these documents suddenly when it
20 appeared, it had been lost for some time. Maybe something
21 that was -- something was done that was improper or
22 illegal.

23 And he was asking for verification that what is
24 now on that disk is actually what the Rosario list depicts
25 from the People, that it is an authentic document. That's

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1 one thing.

2 MS. GROVES: Can I address that?

3 THE COURT: Do it one at a time.

4 MS. MESSINA: We sent my client a flash drive of
5 everything on that disk.

6 THE DEFENDANT: I would like to be heard on this
7 issue, since I'm already involved in it.

8 THE COURT: I will get to you in a moment.

9 MS. GROVES: What I reviewed, and my conversations
10 with Mr. Walker, as Ms. Messina just stated, there was in
11 fact a missing, I believe, two boxes of court files that
12 were missing. That did delay the delay the appeal back in
13 2012 to 2015.

14 But the People have never, have never not known
15 the location of the boxes related to this file. They have
16 always been in the People's possession. There are
17 communications in our file, internally, dating back to the
18 request for them.

19 There has never been a loss of boxes on the
20 People's part.

21 My understanding further from Mr. Walker regarding
22 the issue of asking Ms. Messina to obtain the Rosario from
23 prior counsel relates exactly to the argument that Mr.
24 Wells has put forth, that anything provided to him now was
25 merely being created and didn't exist previously.

OCT 17th, 2008

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THE DEFENDANT: I guess ADA Fistel.

THE COURT: Okay.

MS. GROVES: Courtney Groves,
G-R-O-V-E-S, for the People.

What is it Mr. Fistel is being asked
testify about?

THE COURT: His conversations with th
Bronx regarding the arrest of the defendant. I
don't know. Let's see what he has to say.

MS. GROVES: The idea is we can
stipulate to something and we wouldn't need to
have Mr. Fistel testify.

THE COURT: That would be nice, but
that's not going to happen, so --

THE WITNESS: Sure.

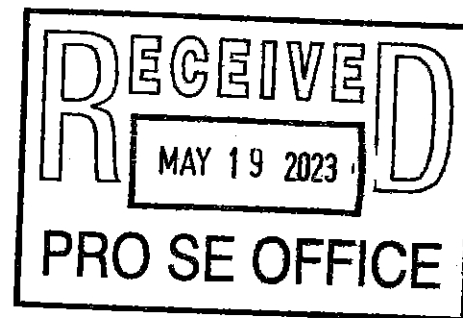
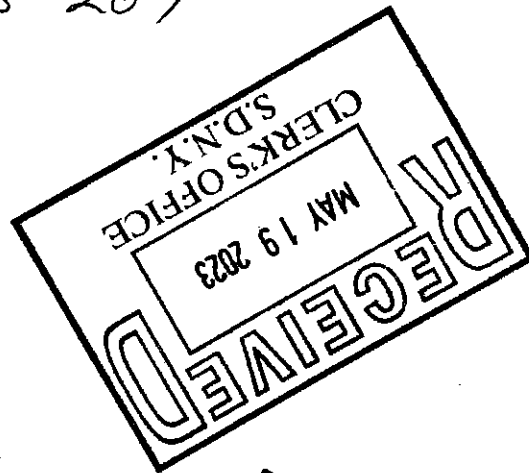
M I C H A E L F I S T E L, called as a witness on
behalf of the Defense, having been first duly
sworn, testified as follows:

THE WITNESS: I do.

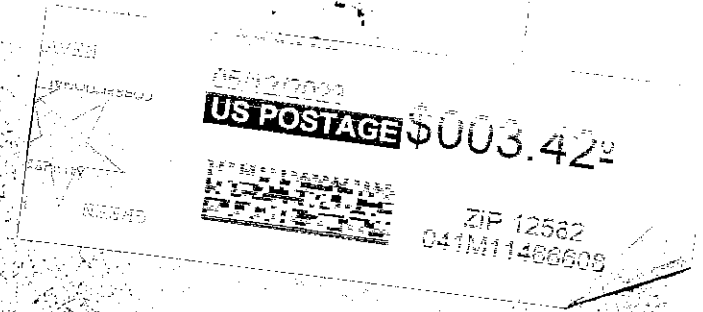
COURT OFFICER: Loud, clear voice stat
your name, spell your last name and give your
occupation.

THE WITNESS: Michael Fistel,
F-I-S-T-E-L, I'm an assistant district attorney.

US 16 11-A-1747
Haven C.F.
594 Route 216,
Stormville, NY
12582
G-5-267



or Marks



Written by [illegible]
[illegible] Southern District
of [illegible]
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Pro Se

